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CLERK US DISTRICT COURT
DISTRICT OF ARIZONA

7 IN THE UNITED STATES DISTRICT COURT

8 FOR THE DISTRICT OF ARIZONA

9 United States of America,

10 Plaintiff,

11 vs.

12
13 Howard Dennis Barnes,
14 Defendant.

CR 13 - 567 TUC RCC(DTF)

INDICTMENT

Violations:

18 U.S.C. § 1341
(Mail Fraud)
Counts 1-4

18 U.S.C. § 1028A
(Aggravated Identity Theft)
Counts 5-6

18 U.S.C. §§ 1030(a)(4), 1030(b),
1030(c)(3)(A)
(Attempted Fraud In Connection With
Computers)
Count 7

Criminal Forfeiture Allegations
18 U.S.C. §§ 981(a)(1)(C)
982(a)(2)(B)
1028(b)(5)

28 U.S.C. § 2461(c)

22 THE GRAND JURY CHARGES:

23 INTRODUCTION AND THE SCHEME TO DEFRAUD:

24 The following facts are alleged:

- 25 1. The defendant, Howard Dennis Barnes, (hereinafter referred to as "BARNES"
26 or the defendant), knowingly engaged in a scheme to defraud with the intent to
27
28

1 defraud. The defendant knowingly engaged in a scheme to defraud to unlawfully
2 obtain money based on material false representations.

3 2. The defendant unlawfully obtained and/or used the identities or means of
4 identification of various victims without lawful authority or their consent or
5 authorization. The defendant fraudulently obtained and/or used identification
6 documents with the names and other personal identifying information or means
7 of identification of various victims. As part of the scheme, the defendant would
8 forge the names of victims on fraudulent documents for the purpose of
9 furthering his scheme to defraud to unlawfully obtain money to which the
10 defendant was not legally entitled.

11 3. As part of the scheme, the defendant would advertise or post ads on the online
12 computer forum known as *Craigslist*. *Craigslist* is a website on the internet
13 where individuals can post advertisements similar to a classified advertisement
14 section in a newspaper. The defendant would advertise for the sale of various
15 real estate properties the defendant did not lawfully own. In reality, the
16 properties were owned by the victim-sellers.

17 4. The defendant did unlawfully use the victim-sellers' identities to sell or attempt
18 to sell property that actually lawfully belonged to the victim-sellers or in at least
19 one case, the estate of a deceased victim. The defendant would, purporting to be
20 the true seller, fraudulently transfer a phony deed of title to the properties to a
21 separate victim-buyer. The defendant would thereafter generally mail the
22 fraudulent deeds, in interstate commerce, across state lines so the deed could be
23 recorded. The defendant fraudulently forged the true victim-seller's name as
24 transferring the property to the victim-buyer. Some of the victim-buyers would
25 either wire or disburse funds for the purchase of the properties to the defendant
26 or to a bank account he controlled.

27 5. The defendant further fraudulently attempted to steal confidential financial
28 information from a bank's protected computer. In so doing, the defendant

attempted to obtain account information from a bank with the intent to defraud and to steal money from the account holders of the bank.

COUNTS 1 – 4

Mail Fraud

[Title 18 U.S.C. § 1341]

6. Paragraphs 1 – 4 of this indictment are re-alleged and reincorporated as if fully set forth herein.
7. From a time unknown to the grand jury but at least through March, 2013, within the District of Arizona and elsewhere, the defendant, BARNES, knowingly and willfully devised and intended to devise a scheme and artifice to defraud as set forth in the introductory allegations (paragraphs 1-4) to obtain money by means of material false and materially fraudulent pretenses, statements, representations, and promises and by intentional concealment and omission of material facts.

Use of the Mails

8. On or about the dates listed below, within the District of Arizona, and elsewhere, the defendant, for the purpose of executing the aforesaid scheme and artifice to defraud, and attempting to do so, did knowingly place in any post office and authorized depository for mail matter and knowingly caused to be delivered certain mail matter, that is, “fraudulent deeds” or checks through the United States Postal Service or by a private or commercial carrier, according to the directions thereon as described in each count below:

Count	Date	Description of Mailing
1	10/28/12	Shipment of check #126220 for \$500 from CA through the United States Mail, U.S. Postal Service to Tucson, AZ in relation to defendant’s fraudulent sale of deceased Victim A’s property

Count	Date	Description of Mailing
2	01/02/13	Shipment of fraudulent deed unlawfully using the name of Victim B, as the seller, from Arizona through the United States Mail, U.S. Postal Service, to R.Z. in California
3	02/28/13	Shipment of fraudulent deed unlawfully using the name of Victim B, as the seller, from Arizona through the United States Mail, U.S. Postal Service, to R.Z. in California
4	03/11/13	Shipment of fraudulent deed unlawfully using the name of Victim B, as the seller, from Arizona through the United States Mail, U.S. Postal Service, to G.B. in California

All in violation of Title 18, United States Code, § 1341.

COUNT 5

Aggravated Identity Theft

[Title 18 U.S.C. § 1028A]

9. From a time unknown and continuing through at least November, 2012, at or near Tucson or Nogales, Arizona, in the District of Arizona, and elsewhere, the defendant, BARNES, did knowingly and with intent to defraud, steal, and use the identity and means of identification of another person, that is: the name of Victim A, a known adult male and deceased individual, without lawful authority during and in relation to a felony of mail fraud in violation of 18 U.S.C. § 1341 and enumerated in 18 U.S.C. § 1028A(c), all in violation of Title 18, United States Code, Section 1028A(a)(1).

COUNT 6

Aggravated Identity Theft

[Title 18 U.S.C. § 1028A]

10. From a time unknown and continuing through on or about March, 2013, at or near Tucson or Nogales, Arizona, in the District of Arizona, the defendant, BARNES, did knowingly and with intent to defraud, steal, and use the identity

1 and means of identification of another person, that is: the name of Victim B, a
2 known adult male, without lawful authority and without Victim B's permission
3 or authorization during and in relation to a felony of mail fraud in violation of
4 18 U.S.C. § 1341 and enumerated in 18 U.S.C. § 1028A(c), all in violation of
5 Title 18, United States Code, Section 1028A(a)(1).

6 **COUNT 7**

7 **Attempted Fraud In Connection with Computer**

8 [Title 18 U.S.C. § 1030]

9 11. Paragraph 5 of this indictment is hereby incorporated and re-alleged as if fully
10 set forth herein.

11 12. From a time unknown through on or about March 12, 2013, at or near Tucson, in
12 the District of Arizona the defendant did knowingly and with the intent to
13 defraud, attempt to access a protected computer without authorization or to
14 exceed authorized access of such protected computer. The defendant, by means
15 of such conduct, did intentionally attempt to further his intended scheme to
16 defraud to obtain a thing of value, that is, to steal money from the account
17 holders of a bank's protected computer all in violation of Title 18, United States
18 Code, Sections 1030(a)(4), 1030(b) and 1030(c)(3)(A).

19 **FORFEITURE ALLEGATION**

20 Upon conviction of the offenses in violation of Title 18, United States Code,
21 Section 1341 as set forth in Counts One through Four of this Indictment, the defendant,
22 BARNES, shall forfeit to the United States of America, pursuant to Title 18, United
23 States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all
24 right, title, and interest in any property, real or personal, which constitutes or is derived
25 from proceeds traceable to the offenses. The property to be forfeited includes, but is not
26 limited to \$11,721 in United States currency.

27 Upon conviction of the offenses in violation of Title 18, United States Code,
28 Section 1028A, as set forth in Counts Five and Six of this Indictment, defendant Barnes,

1 shall forfeit to the United States:

2 A) Pursuant to Title 18, United States Code, Section 982(a)(2)(B) all right,
3 title, and interest in any property constituting, or derived from, any
4 proceeds the person obtained, directly or indirectly, as the result of the
5 said violations; and

6 B) Pursuant to Title 18, United States Code, Section 1028(b)(5), all right,
7 title, and interest in any personal property used, or intended to be used,
8 to commit said violations.

9 A sum of money equal to the amount of proceeds obtained as a result of the
10 offenses.

11 If any of the forfeitable property, as a result of any act or omission of the
12 defendant: (1) cannot be located upon the exercise of due diligence; (2) has been
13 transferred or sold to, or deposited with, a third party; (3) has been placed beyond the
14 jurisdiction of the court; (4) has been substantially diminished in value; (5) has been
15 commingled with other property which cannot be divided without difficulty; it is the
16 intent of the United States, pursuant to Title 21, United States Code, Section 853(p) to
17 seek forfeiture of any other property of said defendant up to the value of the above-
18 described forfeitable property.

19 All pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(2)(B),
20 1028(b)(5), and Title 28, United States Code, Section 2461(c).

21 A TRUE BILL

22 15/
23 Presiding Juror

24 JOHN S. LEONARDO
25 United States Attorney
26 District of Arizona

27 15/
28 Assistant U.S. Attorney

APR 03 2013